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Technology Center 2100

In re Application of:

Kenneth Lawrence Accardi et al.

Serial No.: 09/224,262

Filed: December 31, 1998

For: MEDICAL DIAGNOSTIC SYSTEM
REMOTE SERVICE METHOD AND
APPARATUS

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Group Art Unit: 2171

Examiner: Chen, Te Y.

Atty. Docket: 15-SV-4834/YOD/SWA
(GEMS:0038)

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Date

Tait R. Swanson

Sir:

APPELLANT'S REPLY BRIEF PURSUANT TO 37 C.F.R. § 1.193

In response to the Examiner's Answer mailed February 24, 2004, Appellants file this Reply Brief, in triplicate, in furtherance to the Appeal Brief transmitted by First Class Mail to the U.S. Patent and Trademark Office on December 1, 2003, and received by the U.S. Patent and Trademark Office on December 4, 2003.

The Appellants have carefully studied the Examiner's Answer and respectfully reassert that the Examiner has failed to make a persuasive case that the claims 1-28 of the present application are anticipated by Derzay et al. (U.S. Patent No. 6,434,572) under 35 U.S.C. § 102(e). Specifically, the Derzay et al. reference fails to teach or suggest **service requests** involving **identification** of a **standard or predefined service function**, as recited in each of the independent claims 1, 8, 16, and 23. Instead, the Derzay et al. reference merely permits selection of a **problem area 206** and a problem description 212, which absolutely preclude the possibility of any sort of predefined or standard service function. See Derzay et al., Fig. 8; Col. 14, lines 3-

8. Accordingly, the Appellants respectfully request reversal of the foregoing rejections under 35 U.S.C. § 102(e).

Legal Precedent

To support a *prima facie* case of anticipation, the prior art reference must show the identical invention “in as complete detail as contained in the ... claim.” *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 U.S.P.Q. 2d 1913, 1920 (Fed. Cir. 1989). If the Examiner relies on a theory of *inherency*, the *extrinsic evidence* must make clear that the missing descriptive matter is *necessarily* present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill. *In re Robertson*, 169 F.3d 743, 49 U.S.P.Q.2d 1949 (Fed. Cir. 1999) (Emphasis Added). The mere fact that a certain thing *may* result from a given set of circumstances is not sufficient. *Id.* Moreover, the drawings of the cited reference must be evaluated for what they *reasonably disclose and suggest* to one of ordinary skill in the art. *In re Aslanian*, 590 F.2d 911, 200 U.S.P.Q. 500 (CCPA 1979).

Omitted Claim Features

As noted above, each of the independent claims 1, 8, 16, and 23 recite **service requests** involving the **identification** of a **standard or predefined service function**. Specifically, independent claim 1 recites, *inter alia*, “a field service unit configured to generate service requests for operational servicing of the medical diagnostic station, *identifying a standard service function* from a plurality of service functions.” Similarly, independent claim 8 recites, *inter alia*, a “service request including *identification* of a *predefined service function*.” Independent claim 16 recites, *inter alia*, a “service request including *identification* of a service function from a plurality of *predefined service functions*.” Finally, independent claim 23 recites, *inter alia*, a “service request including *identification* of at least one of the *predefined service functions*.”

In the Examiner's Answer directed toward Group I, the Examiner stated:

Wherein, the service request processing (including Fig(s). 8-9 & 11), the receiving [e.g., the receiving of a user's selection for the unit 206, Fig. 8] and transmitting of the service data [e.g., the

transmitting function provided by the unit 216, Fig. 8] are clearly regarded as operational standard service functions of the medical diagnostic system. Paper No. 22, page 7.

The Appellants respectfully disagree with the Examiner's interpretation of Derzay et al. In response of the Examiner's statement above, the Appellants stress that the foregoing transmitting, receiving, and processing features are neither equivalent nor remotely suggestive of *identification* of a *standard or predefined service function*, as recited in each of the independent claims 1, 8, 16, and 23. First, the Appellants reiterate that the service requests page 202 only conveys *problem information*, such as the problem area 20 and problem description 212, but not any sort of standard or predefined *service function*. Second, the transmitting, receiving, and processing features are simply the acts of *conveying (not identifying)* such problem information. In other words, the act of clicking the send to service center button 216 does not involve *identifying* a standard or predefined service function, but rather it involves mere *conveyance or transmission* of the problem information (e.g., problem area 206 and problem description 212). Third, the problem description 212 will virtually always be a non-standard or non-predefined text string of information, which will render each service request 202 and conveyance by the button 216 to be non-standard and non-predefined. For these reasons, the Examiner's interpretation of Derzay et al. is completely unreasonable and unsupported by the figures and corresponding detailed description. The Derzay et al. reference simply fails to teach each and every element of the instant claims.

In the Examiner's Answer directed toward Group II, the Examiner cited column 13, lines 37-41 of Derzay et al. and further asserted:

the problem area (206, Fig. 8) and the problem description text box (212, Fig. 8) are clearly being identified as parts of the predefined standard uniform graphical service function associated with the service request page (202, Fig. 8) of the medical diagnostic system. Paper No. 22, page 8.

Again, the Examiner misconstrued the explicit teaching of Derzay et al. in view of the instant claims. Although Derzay et al. describe the service requests page 202 as a uniform graphical user *interface*, neither the service request page 202 nor the problem information (e.g., problem

area 206 and problem description 212) permits *identification* of a standard or predefined service *function*, as recited by the instant claims. *See* Derzay et al.; Fig. 8; Col. 13, lines 34-37. The Appellants emphasize that the service requests page 202 merely present a graphical user interface, which enables a user to convey problem information to the remote service facility for *subsequent customized* analysis of the particular problem information. *See* Derzay et al.; Figs. 8 and 13; Col. 17, lines 43-45; Col. 18, lines 12-14 and 43-47. For example, the Derzay et al. reference discloses that the “service facility engineer will perform analysis of the service issues and recontact the diagnostic system either in person, by telephone, or directly through the network connection and user interface.” Derzay et al.; Col. 18, lines 43-47. For these reasons, the Appellants reiterate that the service request page 202 only relates to custom (non-standard and non-predefined) service requests, which do not identify any sort of standard or predefined service functions. In particular, the problem-specific information entered in the problem description text box 212 requires *subsequent analysis* by the service facility engineer before any sort of servicing can even be recommended. *See id.* Thus, the Examiner’s position is flawed and, as such, cannot support a *prima facie* case of anticipation of the instant claims.

Also in the Examiner’s Answer directed toward Group II, the Examiner cited column 13, lines 53-65 of Derzay et al. and further asserted:

As such, the Web pages 218 and 236 are intended to operate as a feature of a service request for requesting, compiling, and transmitting reports as shown by 218, Fig. 9 or descriptions of software routines such as imaging protocols as shown by 236, Fig. 11. Paper No. 22, page 8.

As discussed in the Appeal Brief, the Appellants respectfully stress that the Web pages 218 and 236 refer to a system reports page 218 and a protocol screen 236, which are clearly *separate* from the service request page 202. *See* Derzay et al., Figs. 8, 9, and 11; Col. 4, lines 13-18 and 22-25; Col. 13, lines 34-37; Col. 14, lines 33-36; Col. 15, lines 29-34. Only the service requests page 202 is capable of creating a service request. In contrast, the reports page 218 merely *informs* “the system operator of the current and past *state* of service activities.” Derzay et al., Col. 14, lines 33-35 (emphasis added). Moreover, the protocol screen 236 simply *lists* available

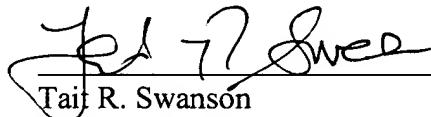
imaging protocols for possible use by the diagnostic system. *See* Derzay et al., Col. 15, lines 29-32 and 51-54. Neither the system reports page 218 nor the protocol screen 236 involves any sort of service request, much less identification of a standard or predefined service function associated with a service request. For these reasons, the Examiner's position is flawed and, as such, cannot support a *prima facie* case of anticipation of the instant claims.

Conclusion

In view of the above remarks, Appellants respectfully submit that the Examiner has provided no supportable position or evidence that claims 1-28 are anticipated by Derzay et al. under Section 102(e). Accordingly, Appellants respectfully request that the Board find claims 1-28 patentable over the prior art of record and withdraw all outstanding rejections.

Respectfully submitted,

Date: April 26, 2004



Tait R. Swanson
Registration No. 48,226
FLETCHER YODER
P.O. Box 692289
Houston, TX 77269-2289
(281) 970-4545